

REQUEST FOR COUNCIL ACTION

MEETING
12-1-03

179

AGENDA SECTION: PUBLIC HEARING	ORIGINATING DEPT: PLANNING	ITEM NO. E-7
ITEM DESCRIPTION: Type III, Phase III Conditional Use Permit #03-53 by Degeus Properties LLC to allow for the placement of fill in the flood prone area. The proposal is to place fill in the flood prone area to allow accommodate a parking lot and stormwater pond. The property is located along the east side of TH 63 and south of Wood Lake Drive SE.		PREPARED BY: Mitzi A. Baker, Senior Planner

November 19, 2003

Recommendation:

The Commission reviewed this Conditional Use Permit on November 12, 2003 and recommend approval subject to the following conditions:

- 1. Prior to commencing operations on this property, the applicant shall obtain grading plan approval from the City.***
- 2. The activity shall not cause a filling or draining of the wetland or a permit shall be obtained as may be required through the Wetland Conservation Act.***

Council Action Needed:

- 1. If the Council wishes to proceed, it should instruct the City Attorney to prepare a resolution with findings supporting their decision.***

Attachment:

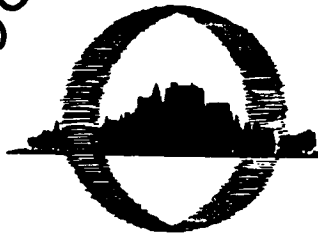
- Staff Report

Distribution:

- City Attorney – Legal Description Attached
- Planning Department File
- McGhie & Betts, Associates
- Applicant: This item will be considered sometime after 7:00 p.m. on Monday December 1, 2003, in the Council/Board Chambers at the Government Center, 151 4th Street SE.

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____

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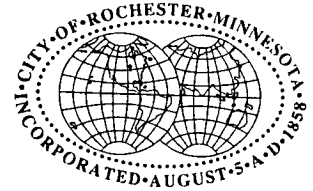


ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF
Olmsted

www.olmstedcounty.com/planning



TO: City Planning & Zoning Commission

FROM: Mitzi A. Baker, Senior Planner

DATE: November 5, 2003

RE: Type III, Phase III Conditional Use Permit #03-53 by Degeus Properties LLC to allow for the placement of fill in the flood prone area. The proposal is to place fill in the flood prone area to allow accommodate a parking lot and stormwater pond. The property is located along the east side of TH 63 and south of Wood Lake Drive SE.

Planning Department Review:

Applicant(s): Degeus Properties, LLC
3705 Enterprise Dr. SW
Rochester, MN 55902

Engineer/Consultant: Pape Engineering & Land Surveying, Inc.
601 36th St. SW
Rochester, MN 55902

Requested Action: The applicant is proposing to place fill in the Flood Prone District, which requires a Conditional Use Permit.

Location of Property: This property is located east of TH 63 south, south of 36th St. SE.

Zoning: M-1 (Mixed Commercial-Industrial) District. This property is also within the Flood Overlay Districts and Shoreland Overlay District.

Referral Comments: Wetlands LGU/John Harford; MnDOT

Standards for Approval: Conditional use permits in the Flood Districts are subject to the same standards as every conditional use (see Section 61.146), and some specific conditions related to the Flood Districts (Sections 62.824, 62.834 and 62.860). Activities in the Shoreland Overlay District are subject to specific regulations in Section 62.1000 *et. seq.*

Report Attachments: 1. Excerpts from the Rochester Zoning Ordinance and Land Development Manual

BUILDING CODE 507/285-8345 • GIS/ADDRESSING/MAPPING 507/285-8232 • HOUSING/HRA 507/285-8224

PLANNING/ZONING 507/285-8232 • WELL/SEPTIC 507/285-8345

FAX 507/287-2275

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER



2. Location Map
3. Application materials (report and plans)

Background & Summary :

The applicant is proposing to place fill within the 100 year floodprone district to accommodate a parking lot for a new building and also to construct a new stormwater pond. The construction of the parking lot and pond will also include on-site excavation, with approximately 5,100 c.y. of material being excavated in the Floodprone district and 280 c.y. of fill being placed in the Floodprone district.

When deciding on a Conditional Use Permit in any flood district, the standards of Sections 61.146 and 62.824 shall be considered. These sections are attached to the staff report. In addition to Sections 61.146 and 62.860 need to be complied with.

Section 62.860 of the LDM states that "the deposition of any fill or spoil from dredging of sand and gravel operations, the construction of any structure, or the grading or paving of any areas shall require certification by a registered engineer or hydrologist that the following conditions have been met:

1. Fill deposited in the flood prone area shall be no more than the minimum amount necessary to conduct the use.
2. No net loss of capacity for surface storage of flood waters shall result from the activity.
3. The effect of such activities in the flood prone area shall not result in an increase in erosion potential on the site.

The consultant has provided certification that the CUP application meets the above three criteria.

Recommendation:

If the Commission wishes to make a recommendation, staff would recommend the following conditions or modifications:

- 1. Prior to commencing operations on this property, the applicant shall obtain grading plan approval from the City.***
- 2. The activity shall not cause a filling or draining of the wetland or the a permit shall be obtained as may be required through the Wetland Conservation Act.***

Planning Commission Action Needed:

Conditional use permits of this sort require City Council approval. The Planning Commission should consider this item (not a public hearing) and make a recommendation to approve, approve with conditions, or deny this request to be forwarded to the City Council. The City Council will hold a public hearing at a later date.

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EXCERPTS FROM THE ROCHESTER ZONING ORDINANCE AND LAND DEVELOPMENT MANUAL

61.145 **Matters Under Consideration:** The review of a conditional use is necessary to insure that it will not be of detriment to and is designed to be compatible with land uses and the area surrounding its location; and that it is consistent with the objectives and purposes of this ordinance and the comprehensive plan.

61.146 **Standards for Conditional Uses:** The zoning administrator, Commission, or Council shall approve a development permit authorizing a conditional use unless one or more of the following findings with respect to the proposed development is made:

- 1) provisions for vehicular loading, unloading, parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create hazards to safety, or will impose a significant burden upon public facilities.
- 2) The intensity, location, operation, or height of proposed buildings and structures will be detrimental to other private development in the neighborhood or will impose undue burdens on the sewers, sanitary and storm drains, water or similar public facilities.
- 3) The provision for on-site bufferyards and landscaping does not provide adequate protection to neighboring properties from detrimental features of the development.
- 4) The site plan fails to provide for the soil erosion and drainage problems that may be created by the development.
- 5) The provisions for exterior lighting create undue hazards to motorists traveling on adjacent public streets or are inadequate for the safety of occupants or users of the site or such provisions damage the value and diminish the usability of adjacent properties.
- 6) The proposed development will create undue fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles.
- 7) In cases where a Phase I plan has been approved, there is a substantial change in the Phase II site plan from the approved Phase I site plan, such that the revised plans will not meet the standards provided by this paragraph.
- 8) The proposed conditional use does not comply with all the standards applying to permitted uses within the underlying zoning district, or with standards specifically applicable to the type of conditional use under consideration, or with specific ordinance standards dealing with matters such as signs which are part of the proposed development, and a variance to allow such deviation has not been secured by the applicant.

62.824 **Conditional Use Permits - Standards for Approval:** When deciding on Conditional Use Permits in any of the flood districts, the following factors, in addition to the standards of Paragraph 61.146 shall also be considered:

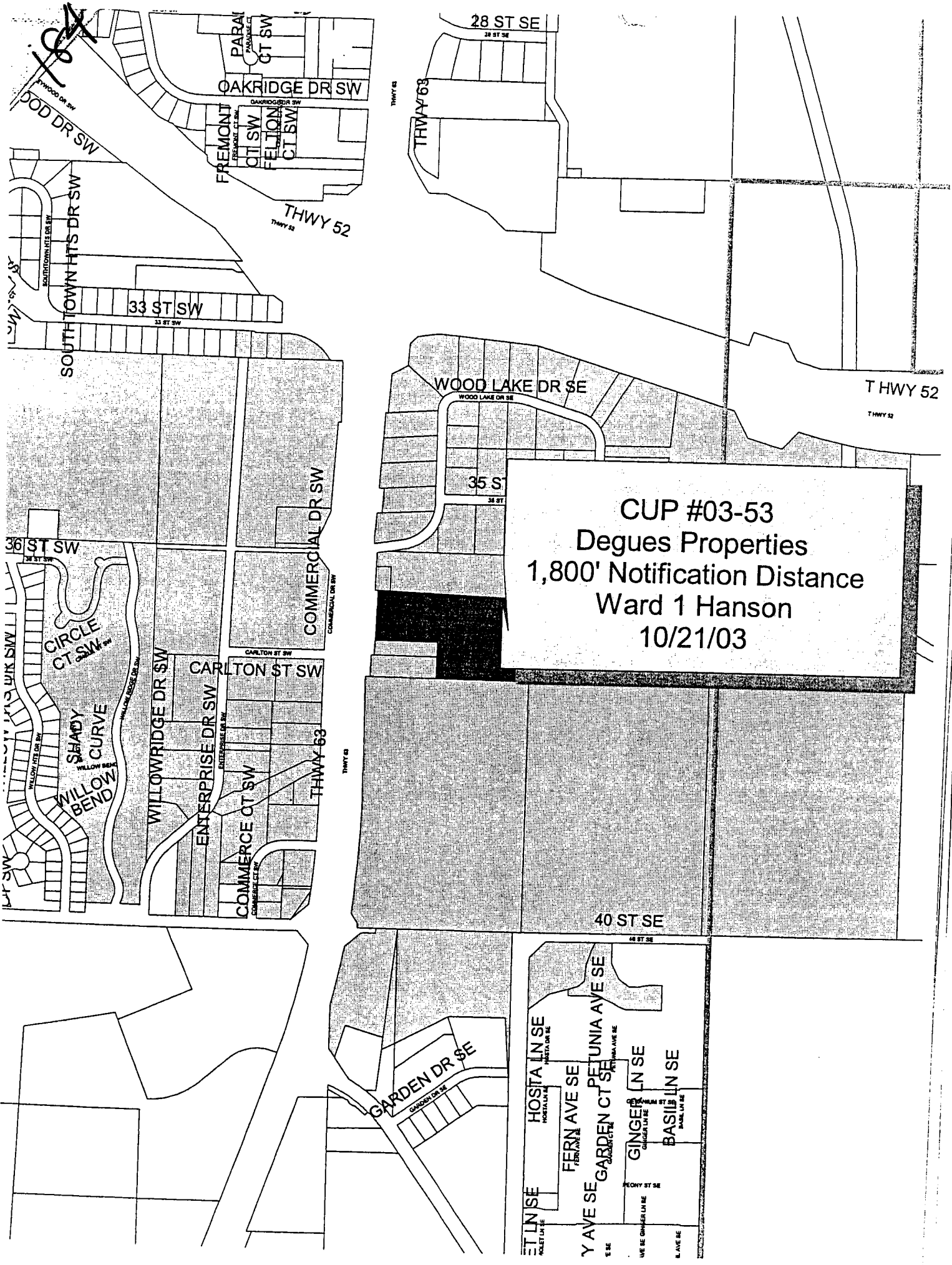
- 1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - 2) The danger that materials may be swept onto other lands or downstream to the injury of others.
 - 3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary condition.
 - 4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - 5) The importance of the services provided by the proposed facility to the community.
 - 6) The need for a waterfront location for the facility.
 - 7) The availability of alternative locations not subject to flooding for the proposed use.
-

- 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- 9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- 10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- 11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- 12) Such other factors which are relevant to the purposes of Paragraph 62.800.

62.860 CONSTRUCTION STANDARDS IN THE FLOOD PRONE DISTRICT

The requirements applicable in the Flood Fringe District, as defined in Section 62.840 shall apply in the Flood Prone District and, in addition, the deposition of any fill or spoil from dredging of sand and gravel operations, the construction of any structure, or the grading or paving of any areas shall require certification by a registered professional engineer or hydrologist that the following conditions have been met:

- 1) Fill deposited in the flood prone area shall be no more than the minimum amount necessary to conduct the use.
 - 2) No net loss of capacity for surface storage of flood waters shall result from the activity.
 - 3) The effect of such activities in the flood prone area shall not result in an increase in erosion potential on the site.
-



CUP #03-53
Degues Properties
1,800' Notification Distance
Ward 1 Hanson
10/21/03

SWALE TYPICAL SECTION

POND TYPICAL SECTION

FILL AREA

EXCAVATION AREA

RECEIVED
OCT - 8 2003
ROCHESTER OLIMPIED
PLANNING DEPARTMENT

[illegible]


DEGEUS TILE
CONDITIONAL USE EXHIBIT
ROCHESTER, MN

[illegible]

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION,
OR REPORT WAS PREPARED BY ME OR UNDER MY
DIRECT SUPERVISION AND THAT I AM A DULY LICENSED
PROFESSIONAL ENGINEER UNDER THE LAWS OF
THE STATE OF MINNESOTA.

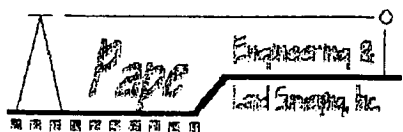
[Signature] DATE 10/8/05

BRUCE L. PAPP, LICENSE NO. 40317
MINNESOTA ENGINEERING AND LAND SURVEYING, INC.



Pape Engineering &
Land Surveying, Inc.
601 36th St. SW, Rochester, MN 55902 (507) 282-2333

581



601 36th St. SW
Rochester, MN 55902
507-282-2333
www.papeengineering.com

October 13, 2003

Mr. Bent Svenby
Rochester-Olmsted Planning Department
2122 Campus Dr. SE
Rochester, MN 55904

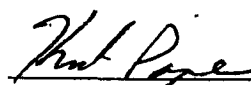
RE: Degeus Tile Project Fill Deposition in the Flood Fringe District
Project No. 1095

Mr. Svenby:

The following conditions have been met as a result of the proposed grading for the above referenced project in accordance with the plans as submitted.

1. Fill deposited in the Flood Prone area shall be no more than the minimum amount necessary to conduct the use.
2. No net loss of capacity for surface storage of flood waters shall result from the activity.
3. The effect of such activities in the Flood Prone area shall not result in an increase in erosion potential on the site.

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.



Kirk L. Pape, P.E.

10/13/03

Date

40317

Reg. No.

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WETLAND COMMENTS FOR DEVELOPMENT APPLICATIONS

Application Number: Request for Comments on CUP #03-53 by Degues Properties LLC

- ☐ No hydric soils exist on the site based on the Soil Survey
- ☒ Hydric soils exist on the site according to the Soil Survey. The property owner is responsible for identifying wetlands on the property and submitting the information as part of this application.
- ☐ A wetland delineation has been carried out for the property and is on file with the Planning Department.
- ☐ A wetland delineation is on file with the Planning Department and a No-Loss, Exemption, or Replacement Plan has been submitted to the Planning Department.
- ☐ A wetland related application has been approved by the City. This plan incorporates the approved wetland plan.
- ☐ No hydric soils exist on the property based on the Soil Survey. However, due to the location in the landscape, the property owner should examine the site for wetlands. The property owner is responsible for identifying wetlands.
- ☒ Other or Explanation:

A wetland delineation was completed for this property. However, the applicant has not submitted the information to the Planning Department for review.



Minnesota Department of Transportation

Minnesota Department of Transportation - District 6

Mail Stop 060

2900 48th Street N.W.

Rochester, MN 55901-5848

Office Tel: 507-280-2913

Fax: 507-285-7355

E-mail: dale.maul@dot.state.mn.us

October 30, 2003

Jennifer Garness

Rochester - Olmsted Planning Department

2122 Campus Drive SE - Suite 100

Rochester, MN 55904

RE: Type III, Phase III Conditional Use Permit #03-53 by Degeus Properties LLC to allow for the placement of fill in the flood prone area. The proposal is to place fill in the flood prone area to allow accommodation of a parking lot and stormwater pond. The property is located along the east side of US Highway 63 and south of Wood Lake Drive SE. US Highway 63, CS 5509

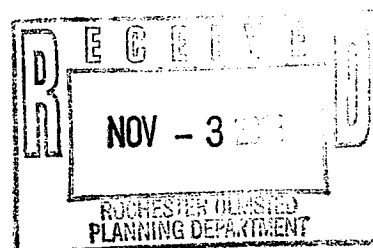
Dear Ms. Garness:

The Minnesota Department of Transportation (Mn/DOT) Planning Office has received and reviewed the above proposal by Degeus Properties LLC. The Planning Office recommends Degeus Properties LLC continue compliance with Lee Gierok, Mn/DOT's Roadway Regulations Supervisor, at (507) 285-7362 as needed with respect to permit #6A-A-03-3404.

Please contact Fred Sandal, Principal Planner, at (507) 285-7369 or Debbie Persoon-Bement, Plan and Plat Coordinator, at (507) 281-7777 with any questions you may have.

Sincerely,

Dale E. Maul
Planning Director



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Mr. Burke moved to recommend approval of Type III, Phase III Conditional Use Permit #03-53 by Degeus Properties LLC as recommended by staff. Mr. Haeussinger seconded the motion. The motion carried 8-0.

CONDITIONS:

1. Prior to commencing operations on this property, the applicant shall obtain grading plan approval from the City.
2. The activity shall not cause a filling or draining of the wetland or the a permit shall be obtained as may be required through the Wetland Conservation Act.

PUBLIC HEARINGS:

Zoning District Amendment #03-21 by Accessible Space Inc. to amend the zoning from B-4 (General Commercial) to the B-1 (Restricted Commercial) district on approximately .79 acres of land. The property is located along the south side of Eastwood Road SE and east of the Casey's General Store.

Ms. Mitzi A. Baker presented the staff report, dated November 4, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Mr. Quinn asked if a portion of the zone change goes out to Marion Road.

Ms. Baker responded no.

Mr. Quinn asked how they would access Marion Road.

Ms. Baker responded that they have ownership of the property, but just are not asking for rezoning of it.

With no one else wishing to be heard, Ms. Wiesner closed the public hearing.

Mr. Ohly moved to recommend approval of Zoning District Amendment #03-21 by Accessible Space Inc. as recommended by staff. Mr. Quinn seconded the motion. The motion carried 8-0.

Preliminary Plat #03-36 to be known as Fox Trails, by Roger Carlsen. The applicant is proposing to subdivide approximately 49.09 acres of land into 53 lots for single family and low density residential development, and 3 Outlots. The property is located north of 19th St. NW, west of West Circle Drive and south of the Badger Ridge development and is included in the approved West 19 Development General Development Plan.

Ms. Baker asked the Commission if they would like staff to make a presentation since the only person in the audience was the applicant's representative.

The Commission responded no.

